

MARCH 9, 2017

RULES COMMITTEE PRINT 115–6

**TEXT OF H.R. 1367, TO IMPROVE THE AUTHORITY
OF THE SECRETARY OF VETERANS AFFAIRS
TO HIRE AND RETAIN PHYSICIANS AND OTHER
EMPLOYEES OF THE DEPARTMENT OF VET-
ERANS AFFAIRS, AND FOR OTHER PURPOSES.**

**[Showing the text of H.R. 1367 as ordered reported by the
Committee on Veterans' Affairs]**

1 SECTION 1. TABLE OF CONTENTS.

2 The table of contents for this Act is as follows:

Sec. 1. Table of contents.

Sec. 2. Modification to annual determination of staffing shortages in Veterans
Health Administration.

Sec. 3. Executive management fellowship program.

Sec. 4. Accountability of leaders for managing the Department of Veterans Af-
fairs.

Sec. 5. Modification to veterans preference.

Sec. 6. Reemployment of former employees.

Sec. 7. Recruiting database.

Sec. 8. Human resources academy.

Sec. 9. Promotional opportunities for technical experts.

Sec. 10. Comptroller General study on succession planning.

Sec. 11. Information on hiring effectiveness.

Sec. 12. Employment of students and recent graduates.

Sec. 13. Exit surveys.

**3 SEC. 2. MODIFICATION TO ANNUAL DETERMINATION OF
4 STAFFING SHORTAGES IN VETERANS HEALTH
5 ADMINISTRATION.**

6 Section 7412(a) of title 38, United States Code, is
7 amended—

1 (1) by striking “the five occupations” and in-
2 serting “the five clinical occupations and the five
3 nonclinical occupations”; and

4 (2) by striking “throughout the Department”
5 and inserting “with respect to each medical center of
6 the Department,”.

7 **SEC. 3. EXECUTIVE MANAGEMENT FELLOWSHIP PROGRAM.**

8 (a) FELLOWSHIP PROGRAM.—Chapter 7 of title 38,
9 United States Code, is amended by adding at the end the
10 following new subchapter:

11 “SUBCHAPTER III—EXECUTIVE MANAGEMENT
12 FELLOWSHIP PROGRAM

13 **“§ 741. Executive Management Fellowship Program**

14 “(a) FELLOWSHIP PROGRAM.—There is in the De-
15 partment an Executive Management Fellowship Program.
16 The purpose of the program shall be to provide—

17 “(1) eligible employees of the Veterans Benefits
18 Administration and the Veterans Health Administra-
19 tion with training and experience in the private sec-
20 tor; and

21 “(2) eligible employees of a private-sector entity
22 with training and experience in the Department of
23 Veterans Affairs.

24 “(b) FELLOWSHIP.—(1) A fellowship provided under
25 this section is a one-year fellowship during which—

1 “(A) with respect to a Department participant,
2 the participant receives training and experience at a
3 private-sector entity that is engaged in the adminis-
4 tration and delivery of health care or other services
5 similar to the benefits administered by the Sec-
6 retary; and

7 “(B) with respect to a private-sector partici-
8 pant, the participant receives training and experi-
9 ence at the Veterans Benefits Administration or the
10 Veterans Health Administration.

11 “(2) The Secretary shall enter into such agreements
12 with private-sector entities as are necessary to carry out
13 this section.

14 “(c) SELECTION OF RECIPIENTS.—(1) In August of
15 each year, the Secretary shall select—

16 “(A) not fewer than 18 and not more than 30
17 eligible employees of the Veterans Benefits Adminis-
18 tration and the Veterans Health Administration to
19 receive a fellowship under this section; and

20 “(B) not fewer than 18 and not more than 30
21 eligible employees of private-sector entities to receive
22 a fellowship under this section.

23 “(2) To the extent practicable, the Secretary shall se-
24 lect eligible employees under subparagraphs (A) and (B)
25 of paragraph (1) from among eligible employees who are

1 veterans in a manner that is reflective of the demographics
2 of the veteran population of the United States.

3 “(d) ELIGIBLE EMPLOYEES.—For the purposes of
4 this section, an eligible employee is—

5 “(1) with respect to an employee of the Vet-
6 erans Benefits Administration or the Veterans
7 Health Administration, an employee who—

8 “(A) is compensated at a rate of basic pay
9 not less than the minimum rate of basic pay
10 payable for grade GS–14 of the General Sched-
11 ule and not more than either the minimum rate
12 of basic pay payable to a member of the Senior
13 Executive Service under section 5382 of title 5,
14 United States Code, or the minimum rate of
15 basic pay payable pursuant to chapter 74 of
16 this title, as the case may be;

17 “(B) enters into an agreement with the
18 Secretary under subsection (e); and

19 “(C) submits to the Secretary an applica-
20 tion containing such information and assur-
21 ances as the Secretary may require; and

22 “(2) with respect to an employee of a private-
23 sector entity, an employee who—

24 “(A) is employed in a position whose du-
25 ties and responsibilities are commensurate with

1 an employee of the Department described in
2 paragraph (1);

3 “(B) enters into an agreement with the
4 Secretary under subsection (e); and

5 “(C) submits to the Secretary an applica-
6 tion containing such information and assur-
7 ances as the Secretary may require.

8 “(e) AGREEMENTS.—(1) An agreement between the
9 Secretary and a Department participant shall be in writ-
10 ing, shall be signed by the participant, and shall include
11 the following provisions:

12 “(A) The Secretary’s agreement to provide the
13 participant with a fellowship under this section;

14 “(B) The participant’s agreement—

15 “(i) to accept the fellowship;

16 “(ii) after completion of the fellowship, to
17 serve as a full-time employee in the Veterans
18 Benefits Administration or the Veterans Health
19 Administration for at least two years as speci-
20 fied in the agreement; and

21 “(iii) that, during the two-year period be-
22 ginning on the last day of the fellowship, the
23 participant will not accept employment in the
24 same industry as the industry of the private-

1 sector entity at which the participant accepts
2 the fellowship.

3 “(C) A provision that any financial obligation of
4 the United States arising out of an agreement en-
5 tered into under this subchapter, and any obligation
6 of the participant which is conditioned on such
7 agreement, is contingent upon funds being appro-
8 priated.

9 “(D) A statement of the damages to which the
10 United States is entitled under this subchapter for
11 the participant’s breach of the agreement.

12 “(E) Such other terms as the Secretary deter-
13 mines are required to be included in the agreement.

14 “(2) An agreement between the Secretary and a pri-
15 vate-sector participant shall be in writing, shall be signed
16 by the participant, and shall include the following provi-
17 sions:

18 “(A) The Secretary’s agreement to provide the
19 participant with a fellowship under this section.

20 “(B) The participant’s agreement to accept the
21 fellowship.

22 “(C) Such other terms as the Secretary deter-
23 mines are required to be included in the agreement.

24 “(f) TREATMENT OF RECIPIENTS.—(1) A Depart-
25 ment participant shall be considered an employee of the

1 Department for all purposes, including for purposes of re-
2 ceiving a salary and benefits, and shall remain eligible for
3 all promotion and incentive programs otherwise available
4 to such an employee.

5 “(2) A private-sector participant shall be considered
6 an employee of the private-sector entity that employs the
7 participant for all purposes, including for purposes of re-
8 ceiving a salary and benefits, and during the fellowship
9 shall be treated as a contractor of the Department.

10 “(g) REPORTS.—Not later than 60 days after com-
11 pleting a fellowship under this section, a recipient of the
12 fellowship shall submit to the Secretary a report on the
13 fellowship. Each such report shall describe the duties of
14 the recipient during the fellowship and any recommenda-
15 tions of the recipient for the application by the Secretary
16 of industry processes, technologies, and best practices. Not
17 later than seven days after receiving each such report, the
18 Secretary shall submit to the Committees on Veterans’ Af-
19 fairs of the Senate and House of Representatives such re-
20 port without change.

21 “(h) DEFINITIONS.—In this section:

22 “(1) The term ‘Department participant’ means
23 an employee of the Veterans Benefits Administration
24 or the Veterans Health Administration who is par-
25 ticipating in the fellowship under this section.

1 “(2) The term ‘private-sector entity’ includes
2 an entity operating under a public-private partner-
3 ship.

4 “(3) The term ‘private-sector participant’
5 means an employee of a private-sector entity who is
6 participating in the fellowship under this section.”.

7 (b) DEADLINE FOR IMPLEMENTATION.—Not later
8 than 90 days after the date of the enactment of this Act,
9 the Secretary of Veterans Affairs shall implement the Ex-
10 ecutive Management Fellowship Program required under
11 section 741 of title 38, United States Code, as added by
12 subsection (a).

13 (c) CLERICAL AMENDMENT.—The table of sections
14 at the beginning of chapter 7 of title 38, United States
15 Code, is amended by adding at the end the following new
16 items:

“SUBCHAPTER III—EXECUTIVE MANAGEMENT FELLOWSHIP PROGRAM

“741. Executive Management Fellowship Program.”.

17 **SEC. 4. ACCOUNTABILITY OF LEADERS FOR MANAGING**
18 **THE DEPARTMENT OF VETERANS AFFAIRS.**

19 (a) IN GENERAL.—Chapter 7 of title 38, United
20 States Code, is amended by inserting after section 717 the
21 following new section:

1 **“§ 719. Annual performance plan for political ap-**
2 **pointees**

3 “(a) IN GENERAL.—The Secretary shall conduct an
4 annual performance plan for each political appointee of
5 the Department that is similar to the annual performance
6 plan conducted for an employee of the Department who
7 is appointed as a career appointee (as that term is defined
8 in section 3132(a)(4) of title 5) within the Senior Execu-
9 tive Service at the Department.

10 “(b) ELEMENTS OF PLAN.—Each annual perform-
11 ance plan conducted under subsection (a) with respect to
12 a political appointee of the Department shall include an
13 assessment of whether the appointee is meeting the fol-
14 lowing goals:

15 “(1) Recruiting, selecting, and retaining well-
16 qualified individuals for employment at the Depart-
17 ment.

18 “(2) Engaging and motivating employees.

19 “(3) Training and developing employees and
20 preparing those employees for future leadership roles
21 within the Department.

22 “(4) Holding each employee of the Department
23 that is a manager accountable for addressing issues
24 relating to performance, in particular issues relating
25 to the performance of employees that report to the
26 manager.

1 “(c) DEFINITION OF POLITICAL APPOINTEE.—In
2 this section, the term ‘political appointee’ means an em-
3 ployee of the Department who holds—

4 “(1) a position which has been excepted from
5 the competitive service by reason of its confidential,
6 policy-determining, policy-making, or policy-advo-
7 cating character; or

8 “(2) a position in the Senior Executive Service
9 as a noncareer appointee (as such term is defined in
10 section 3132(a) of title 5).”.

11 (b) CLERICAL AMENDMENT.—The table of sections
12 at the beginning of chapter 7 of such title is amended by
13 inserting after the item relating to section 717 the fol-
14 lowing new item:

“719. Annual performance plan for political appointees.”.

15 **SEC. 5. MODIFICATION TO VETERANS PREFERENCE.**

16 (a) ACTIVE DUTY REQUIREMENT.—Section
17 2108(1)(B) and (D) of title 5, United States Code, are
18 amended by striking “consecutive” in each instance it ap-
19 pears and inserting “cumulative”.

20 (b) EXPANSION OF ELIGIBILITY OF RETIRED VET-
21 ERANS.—Section 2108(4) of title 5, United States Code,
22 is amended to read as follows:

23 “(4) ‘preference eligible’ includes a retired
24 member of the armed forces; and”.

1 **SEC. 6. REEMPLOYMENT OF FORMER EMPLOYEES.**

2 (a) IN GENERAL.—The Secretary of Veterans Affairs
3 may noncompetitively appoint a qualified former employee
4 to any position within the competitive service or any ex-
5 cepted service position under chapter 74 of title 38, United
6 States Code, at the Department of Veterans Affairs that
7 is one grade higher than the grade of the position at the
8 Department most recently occupied by the employee.

9 (b) LIMITATION.—The Secretary may not appoint a
10 qualified former employee to a position that is more than
11 one grade (or equivalent) higher than the position at the
12 Department most recently occupied by the employee.

13 (c) DEFINITION OF QUALIFIED FORMER EM-
14 PLOYEE.—For purposes of this section, the term “quali-
15 fied former employee” means any individual who—

16 (1) formerly occupied any position at the De-
17 partment of Veterans Affairs within two years before
18 applying for reemployment at the Department;

19 (2) voluntarily left such position, or was subject
20 to a reduction in force, and had a satisfactory per-
21 formance record while occupying such position; and

22 (3) since leaving such position has maintained
23 licensing requirements, related to the position, if
24 any, and gained skill, knowledge, or other factors re-
25 lated to the position.

1 **SEC. 7. RECRUITING DATABASE.**

2 (a) **ESTABLISHMENT.**—The Secretary of Veterans
3 Affairs shall establish a single database that lists each va-
4 cant position in the Department of Veterans Affairs that
5 the Secretary determines is critical to the mission of the
6 Department, difficult to fill, or both.

7 (b) **QUALIFIED APPLICANT.**—If the Secretary deter-
8 mines that an applicant for a vacant position listed in the
9 database established under subsection (a) is qualified for
10 such position but does not select the applicant for such
11 position, the Secretary, at the election of the applicant,
12 shall consider the applicant for other similar vacant posi-
13 tions listed in the database for which the applicant is
14 qualified.

15 (c) **PROLONGED VACANCIES.**—If the Secretary does
16 not fill a vacant position listed in the database established
17 under subsection (a) after a period determined appro-
18 priate by the Secretary, the Secretary—

19 (1) shall ensure that applicants described in
20 subsection (b) are considered for such position; and

21 (2) shall use the database established under
22 subsection (a) to assist in filling such position.

23 (d) **REPORT.**—Not later than one year after the date
24 of the enactment of this Act, the Secretary shall submit
25 to Congress a report on the use and efficacy of the data-
26 base established under subsection (a).

1 **SEC. 8. HUMAN RESOURCES ACADEMY.**

2 (a) IN GENERAL.—The Secretary of Veterans Affairs
3 shall provide to human resources professionals of the Vet-
4 erans Health Administration of the Department of Vet-
5 erans Affairs training on how to best recruit and retain
6 employees of the Veterans Health Administration, includ-
7 ing with respect to any recruitment and retention matters
8 that are unique to the Veterans Health Administration
9 pursuant to chapter 74 of title 38, United States Code,
10 or other provisions of law. The Secretary shall provide
11 such training in a manner that the Secretary determines
12 appropriate in light of budget, travel, and other con-
13 straints.

14 (b) AMOUNT OF TRAINING.—The Secretary shall en-
15 sure that each human resources professional of the Vet-
16 erans Health Administration receives the training de-
17 scribed in subsection (a)—

18 (1) as soon as practicable after being hired by
19 the Secretary as a human resource professional; and

20 (2) annually thereafter.

21 (c) CERTIFICATION.—The Secretary shall require
22 that each human resources professional of the Veterans
23 Health Administration, upon the completion of the train-
24 ing described in subsection (a), certifies that the profes-
25 sional received the training and understands the informa-
26 tion provided by the training.

1 (d) ANNUAL REPORT.—The Secretary shall submit
2 to the Committees on Veterans’ Affairs of the House of
3 Representatives and the Senate an annual report on the
4 training described in subsection (a), including the cost of
5 providing such training and the number of human re-
6 sources professionals who received such training during
7 the year covered by the report.

8 **SEC. 9. PROMOTIONAL OPPORTUNITIES FOR TECHNICAL**
9 **EXPERTS.**

10 Not later than one year after the date of the enact-
11 ment of this Act, the Secretary of Veterans Affairs shall
12 establish a promotional track system for employees of the
13 Department of Veterans Affairs that the Secretary deter-
14 mines are technical experts pursuant to regulations pre-
15 scribed by the Secretary for purposes of carrying out this
16 section. Such system shall—

17 (1) provide any such employee the opportunity
18 to advance within the Department without being re-
19 quired to transition to a management position; and

20 (2) for purposes of achieving career advance-
21 ment—

22 (A) provide for the establishment of new
23 positions within the Department; and

1 (B) notwithstanding any other provision of
2 law, provide for increases in pay for any such
3 employee.

4 **SEC. 10. COMPTROLLER GENERAL STUDY ON SUCCESSION**
5 **PLANNING.**

6 (a) STUDY.—The Comptroller General of the United
7 States shall conduct a study on each of the following:

8 (1) The succession planning at each medical fa-
9 cility of the Department of Veterans Affairs.

10 (2) The succession planning at the Veterans
11 Benefits Administration and the National Cemetery
12 Administration of the Department.

13 (b) ELEMENTS.—The study under subsection (a)
14 shall include, for each entity studied under the study, the
15 following:

16 (1) A determination of the mission-critical posi-
17 tions within the entity and the vacancy risk of such
18 positions.

19 (2) An analysis of the future needs for mission-
20 critical positions and gaps within the existing talent
21 pool of the entity.

22 (3) A description of strategies to close skill
23 gaps through the use of training for existing staff,
24 targeted recruitment, and hiring.

1 (4) A plan to regularly evaluate progress of
2 staff and update existing succession plans using
3 clear and measurable metrics and benchmarks.

4 (5) A demonstration of the capacity of the enti-
5 ty to execute succession plans with successful succes-
6 sion management strategies.

7 (6) Any other matters the Comptroller General
8 determines appropriate.

9 (c) REPORT.—Not later than one year after the date
10 of the enactment of this Act, the Comptroller General shall
11 submit to the Committees on Veterans' Affairs of the
12 House of Representatives and the Senate a report con-
13 taining each study conducted under subsection (a).

14 **SEC. 11. INFORMATION ON HIRING EFFECTIVENESS.**

15 (a) IN GENERAL.—The Secretary of Veterans Affairs
16 shall measure and collect information on indicators of hir-
17 ing effectiveness as follows:

18 (1) With respect to recruiting and hiring—

19 (A) the ability to reach and recruit well-
20 qualified talent from diverse talent pools, in-
21 cluding sources of candidates for mission-crit-
22 ical occupations;

23 (B) the use and impact of special hiring
24 authorities and flexibilities to recruit most
25 qualified applicants, including the use of stu-

1 dent internships as a talent pool for permanent
2 hires;

3 (C) the use and impact of special hiring
4 authorities and flexibilities to recruit diverse
5 candidates, including veteran, minority and dis-
6 abled candidates;

7 (D) the use and impact of special hiring
8 authorities and flexibilities to recruit candidates
9 for mission-critical occupations and occupations
10 with shortages;

11 (E) the age, educational level, and source
12 of applicants;

13 (F) the length of time between the date on
14 which a position is advertised and the date on
15 which a first offer of employment is made;

16 (G) the length of time between the date on
17 which a first offer of employment for a position
18 is made and the date on which a new hire
19 starts in that position;

20 (H) the number of internal and external
21 applicants for positions; and

22 (I) the number of offers accepted com-
23 pared to the number of offers made for perma-
24 nent positions.

25 (2) With respect to the hiring authority—

1 (A) the satisfaction of the hiring authority
2 with—

3 (i) the quality of new hires;

4 (ii) the match between the skills of
5 newly hired individuals and the needs of
6 the Department;

7 (iii) the hiring process and hiring out-
8 comes after the first year of the employ-
9 ment of a new hire; and

10 (iv) the length of time that elapses to
11 fill a position and for a new hire to begin
12 working in a new position; and

13 (B) mission-critical deficiencies filled by
14 new hires and the connection between mission-
15 critical deficiencies and annual agency perform-
16 ance.

17 (3) Satisfaction of employment applicants with
18 the hiring process, including with respect to the clar-
19 ity of job announcement, reasons for withdrawal of
20 applications, user-friendliness of the application
21 process, communication regarding status of applica-
22 tion, and timeliness of hiring decision.

23 (4) With respect to a newly hired employee—

1 (A) the satisfaction of the employee with
2 the hiring process as described in paragraph
3 (3);

4 (B) the satisfaction with the process of
5 joining and becoming oriented with the Depart-
6 ment, including with respect to the timeliness of
7 such process after the hiring decision, the ori-
8 entation process, and being provided with time-
9 ly and useful new employee information and as-
10 sistance after the hire is made but before the
11 new hire starts in that position and after the
12 new hire has begun;

13 (C) attrition and reasons for leaving;

14 (D) investment in training and develop-
15 ment for the employee during the first year of
16 employment; and

17 (E) significant barriers to the effective re-
18 cruitment, selection, joining and becoming ori-
19 ented with the Department, and retention of
20 employees.

21 (b) DISAGGREGATION OF DATA.—To the extent prac-
22 ticable and in a manner which protects personally identifi-
23 able information of applicants and employees, the Sec-
24 retary shall collect and report data collected under sub-

1 section (a) disaggregated by facility or Veterans Inte-
2 grated Service Network.

3 (c) REPORTS.—

4 (1) IN GENERAL.—On an annual basis, the Sec-
5 retary shall submit to the Committees on Veterans'
6 Affairs of the House of Representatives and the Sen-
7 ate a report of the information collected under sub-
8 section (a).

9 (2) AVAILABILITY OF RECRUITING AND HIRING
10 INFORMATION.—On an annual basis, the Secretary
11 shall make publicly available the information col-
12 lected under subsection (a) in a consistent and ma-
13 chine-readable format to allow for a comparison of
14 hiring effectiveness and experience by Veterans Inte-
15 grated Service Network or comparable public or pri-
16 vate sector organization.

17 **SEC. 12. EMPLOYMENT OF STUDENTS AND RECENT GRAD-**
18 **UATES.**

19 (a) IN GENERAL.—The Secretary of Veterans Affairs
20 shall prescribe regulations to allow for excepted service ap-
21 pointments of students and recent graduates leading to
22 conversion to career or career conditional employment of
23 a student or recent graduate of a qualifying educational
24 institution, as defined by the Department.

1 (b) APPLICABILITY.—The conversion authority de-
2 scribed in subsection (a) shall be applicable to individuals
3 in good standing who—

4 (1) are employed in a qualifying internship or
5 fellowship program at the Department;

6 (2) are employed in the Department in a volun-
7 teer capacity and performing substantive duties com-
8 parable to those of individuals in internship or fel-
9 lowship programs and meet the required number of
10 hours for conversion; or

11 (3) are employed in the Department under a
12 contract or agreement with an external nonprofit or-
13 ganization and performing substantive duties com-
14 parable to those of individuals in internship or fel-
15 lowship programs.

16 (c) UNIFORMITY.—For the purposes of subsections
17 (b)(2) and (b)(3), hours of work performed by an indi-
18 vidual employed shall be considered equal to those per-
19 formed by an individual employed in a qualifying intern-
20 ship or fellowship program by the Department.

21 **SEC. 13. EXIT SURVEYS.**

22 (a) IN GENERAL.—The Secretary of Veterans Affairs
23 shall develop and carry out a standardized exit survey to
24 be voluntarily completed by career and noncareer employ-
25 ees and executives of the Department of Veterans Affairs

1 who voluntarily separate from the Department. Such exit
2 survey shall be developed in consultation with an appro-
3 priate non-Department entity with experience developing
4 such surveys.

5 (b) SURVEY CONTENT.—The survey shall include, at
6 a minimum—

7 (1) reasons for leaving the Department;

8 (2) efforts made by the supervisor of the em-
9 ployee to retain the individual;

10 (3) the extent of job satisfaction and engage-
11 ment during the employment;

12 (4) the intent of employee to either remain em-
13 ployed within the Federal Government or to leave
14 employment with the Federal Government; and

15 (5) such other matters as the Secretary deter-
16 mines appropriate.

17 (c) ANONYMITY OF SURVEY CONTENT.—The Sec-
18 retary shall ensure that, to the extent possible, data col-
19 lected under subsection (a) is anonymized and personally
20 identifiable information is removed.

21 (d) SHARING OF SURVEY DATA.—The Secretary
22 shall ensure that the results of the survey required by sub-
23 section (a) are shared on an annual basis with directors
24 and managers of facilities of the Department and the Vet-
25 erans Integrated Service Networks.

1 (e) REPORT.—Not later than one year after the date
2 of the enactment of this Act, and annually thereafter, the
3 Secretary shall submit to the Committees on Veterans' Af-
4 fairs of the House of Representatives and the Senate a
5 report containing the aggregate results of the exit survey
6 under subsection (a) covering the year prior to the report.

7 The report shall include—

8 (1) an analysis of the most common reasons
9 employees choose to leave the Department;

10 (2) steps the Secretary is taking to improve re-
11 tention, particularly for mission-critical occupations;

12 (3) the demographic characteristics of employ-
13 ees choosing to leave the Department;

14 (4) any legislative barriers to improving em-
15 ployee retention; and

16 (5) the number of employees who took the exit
17 survey under subsection (a).

